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I. Introduction

Mr. Chairman and members of the subcommittee, thank you for the opportunity to testify today on the problem of trafficking in human beings. This is a growing problem in the United States and around the world, and there is a great need for legislation to provide additional measures with which to prosecute traffickers and provide assistance to victims. Strengthened enforcement and prosecution against traffickers is crucial as trafficking is growing, in part, because it remains a high-profit, relatively low-risk criminal enterprise. I commend you and the subcommittee for conducting hearings on this important issue.

Several weeks ago you heard from State Department officials about the extent of the trafficking problem in this country and abroad. Today I would like to discuss why the Department of Justice feels so strongly about the need for additional tools to prosecute traffickers.

II. Current Prosecution Efforts

Exploitation takes many forms. Typical fact patterns include women who are kidnaped into prostitution, are forced into prostitution to repay a smuggling fee, or are otherwise transported for purposes of prostitution; migrant agricultural workers who are smuggled into the United States for a fee and then forced to work until they have repaid their crew leaders; and domestic servants who are not allowed to leave their employers' home or service. Let me give you specific examples.

In 1995, state, local and Federal authorities discovered that more than 70 Thai women and men had been smuggled into the U.S. and enslaved in El Monte, California for up to seven years. The workers were held in a guarded compound and forced to work in a sweatshop environment. At the time, the operation was one of the most egregious cases of worker exploitation identified in modern U.S. history. The U.S. Attorney's Office in Los Angeles and the Civil Rights Division successfully prosecuted the sweatshop owners for

violations of involuntary servitude, conspiracy, and immigration laws.

In 1997, we learned that dozens of hearing-impaired Mexican Nationals were enslaved and forced to peddle trinkets on the streets of New York, Los Angeles, and Chicago. They were kept under their captors' control through beatings, physical restraint, and torture. This case shocked the conscience of the nation because the victims were exploited not simply because of their poverty and immigration status, but also because of their disability. Eighteen defendants eventually pled guilty to slavery conspiracy charges, as well as immigration, money laundering, and obstruction of justice offenses.

Sadly, just as the so-called "Deaf Mexican" case was being resolved in 1998, we learned about another tragic situation. Mexican girls and women, some as young as 14 years old, were being lured into the United States and forced to work as prostitutes and sexual slaves in brothels in Florida and the Carolinas. The women and girls were forced to engage in sexual acts with as many as 130 men a week. They were beaten and assaulted, and some were forced to have abortions when they became pregnant. We prosecuted the case and obtained seven guilty pleas.

We also secured guilty pleas last year from three defendants in the Commonwealth of the Northern Mariana Islands who were indicted for luring unsuspecting women from China to the CNMI with false promises of good jobs, only to enslave them in a karaoke bar brothel and force them to submit to prostitution.

Because of the prevalence of such trafficking and worker exploitation, in April 1998 Attorney General Reno created an interagency task force to ensure that the Federal government's efforts to combat and deter such heinous acts are better coordinated. The Worker Exploitation Task Force is co-chaired by the Acting Assistant Attorney General for Civil Rights, Bill Lann Lee, and the Solicitor of Labor, Henry Solano. This effort has brought many different investigative and prosecutorial agencies to the table. Justice Department components include the Civil Rights and Criminal Divisions, the FBI, the INS, United States Attorneys, the Office for Victims of Crime, and the Violence Against Women Office. Other partners include the Departments of Labor, State, and Agriculture, and the Equal Employment Opportunity Commission.

But there is not only a need for better coordination, there is a need for more effective tools for law enforcement as well.

### III. Strengthening Justice Department Enforcement Efforts

We need legislation, such as S. 1842, introduced by Senator Wellstone, that builds upon the existing legal framework to further strengthen the prosecutorial tools available to law enforcement. There are several crucial statutory revisions in the area of trafficking, involuntary servitude, and criminal exploitation of workers that must be addressed.

First, current law permits prosecutions only in limited situations. We must change our laws to criminalize a much broader range of circumstances in which victims are subjected to involuntary servitude, peonage, and unlawfully exploitative labor conditions that the United States and the international community confront. In the United States, many of these cases will involve women trafficked into prostitution, but other cases may include coerced domestic servitude, migrant labor, or sweatshop labor. Penalties for violation should be commensurate with the severity of the crime: fines and/or imprisonment of up to 20 years, and life imprisonment if death results or if the violation includes kidnaping, an attempt to kidnap, aggravated sexual abuse, the attempt to commit aggravated sexual abuse, or an attempt to kill.

Second, we must create the ability to prosecute those who knowingly profit from forced labor of those persons held in involuntary servitude, peonage, or unlawfully exploitative labor conditions. Present criminal law does not cover the use of farm labor contractors and other types of employment relationships which provide a liability shield between the direct oppressor and the economic beneficiary of the slave labor. In order to combat criminal worker exploitation, it is necessary to punish those who knowingly benefit or profit from slavery or use contractors, intermediaries, and others to do their bidding. Without such a statutory tool, these knowing beneficiaries will simply continue the cycle of criminality by hiring replacements for those who are apprehended and prosecuted. Moreover, through this legislation, law enforcement can prosecute those who transport others using fraud, deceit, and misrepresentation, providing the victim with no viable alternative but to perform the labor or services.

Third, we must expand the types of coercion that can be used to demonstrate involuntary servitude and peonage under Federal law. One of the biggest enforcement hurdles we face is that the U.S. Supreme Court requires a showing that the defendant used actual force, threat of force, or threat of legal coercion to enslave the victim. As a

result, Federal law suffers from gaps in coverage. Law enforcement cannot reach and prosecute those who intentionally use more subtle, but no less heinous, forms of coercion that wrongfully keep the victim from leaving his or her labor or service.

For example, the Justice Department investigated a case in the Midwest where a woman was hired as a domestic helper. Upon her arrival, her passport was taken. She was forced to work 16 hours a day, 7 days a week, and she was given only small rations of food. When she complained, her employer threatened to have her deported. They told her that if she ever left the house unescorted, they would call the police and have her put in jail. But despite this exploitation and cruel treatment, it is unlikely that we can prosecute this case because psychological and economic coercion was the method used to keep the victim trapped in a condition of involuntary servitude.

To prosecute cases like this, we must statutorily expand the U.S. Supreme Court's definition of coercion by creating two additional methods of proof to use in those situations which fall short of force or threat of force but which are nonetheless deliberately coercive: (1) where representations are made to any person that physical harm may occur to that person, or to another, in an effort to wrongfully obtain or maintain the labor or services of that person; and (2) where the use of fraud, deceit, or misrepresentation toward any person exists in an effort to wrongfully obtain or maintain the labor or services of that person, where the person is a minor, mentally disabled, or otherwise susceptible to coercion. Some immigrants and foreign nationals whom traffickers deliberately select and prey upon are particularly susceptible to coercion because of their unfamiliarity with our language, laws, and customs.

Fourth, we must amend Title 18 to increase the statutory penalties for violations of involuntary servitude, peonage, and related laws from 10 years imprisonment to 20 years. In addition, Congress should provide for a maximum sentence of up to life imprisonment if such acts include kidnaping, an attempt to kidnap, aggravated sexual abuse, an attempt to commit aggravated sexual abuse, or an attempt to kill, thereby bringing the potential penalties for these crimes in line with those applicable to related criminal offenses. In addition, attempts to violate criminal worker exploitation laws must be punishable in the same manner as a completed violation of those sections. These more stringent penalties better reflect the severity of the crimes, bring the

maximum penalties in line with current law, and increase the potential deterrent effect to traffickers.

Fifth, we must amend Title 18 to address the sadly common scenario where traffickers strip a trafficking victim of his/her identification documents, passport, and immigration papers as a means of control and coercion. In addition, we believe fines and/or imprisonment of up to 5 years for persons who contribute to the trafficking scheme by confiscating any type of identification documentation must be imposed.

Sixth, we support the creation of a new nonimmigrant classification - a "T visa" -- that would be available to victims of trafficking. Too often, law enforcement authorities are hampered in their ability to combat trafficking by the reluctance of victims to come forward for fear of deportation or other adverse immigration consequences. This new category would serve the two-fold purpose of strengthening the ability of law enforcement to detect, investigate, and prosecute trafficking offenses while simultaneously offering a temporary safe haven to victims, in keeping with the humanitarian interests of the United States. Current law is insufficient to deal with trafficking cases because it fails to address situations involving multiple victims and egregious civil offenses, such as many labor law violations. Up to 1,000 visas would be available each year, renewable for up to 3 years, with the possibility for adjustment to permanent legal status where justified on humanitarian grounds or is otherwise in the national interest.

In addition, the Justice Department strongly supports provisions creating a grant program specifically targeted to the provision of services for victims of trafficking.

#### IV. Conclusion

In conclusion, there are several statutory provisions that are needed to strengthen the ability of law enforcement to prosecute traffickers. We must enhance consistency in the criminal code by bringing punishments in this area in line with those provided by other Federal statutes. While a trafficker may violate U.S. law in some instances through the commission of illicit activities, gaps in coverage currently exist which make it impossible to prosecute certain reprehensible forms of abuse. Those gaps must be filled so that law enforcement can most effectively attack traffickers through coordinated investigation and prosecution that invoke the full force

of these laws. Thank you for the opportunity to testify today and I would be pleased to answer any questions.